INSURANCE—STIPULATION IN APPLICATION—MATERIALITY OF REPRESENTATION.—It was expressly stipulated in an application for insurance that each statement should be material to the risk. The application was appropriately made a part of the policy. In an action on the policy, *held*, that the question of the materiality of representations as to diseases previously afflicting insured should have been submitted to the jury and that the stipulation in the application was ineffectual to make the representations conclusively material. *Fidelity Mut. Life Ins. Co.* v. *Miazza* (1908), — Miss. —, 46 South. 817.

In a number of states there are statutes that provide in substance that the untruth of no representation shall avoid insurance unless material to the risk or fraudulently made. MO. ANN. STATUTES, Vol. 3, § 7890; MINN. REV. LAWS 1905, § 1623. Under these statutes it is very properly held that such a stipulation as appears in the principal case is of no avail to render a representation immaterial in fact material. The express provision of the law prevails. But where no such statute intervenes, and there is none in Mississippi, there is a uniformity of judicial decision that such a stipulation is conclusive between the parties. Statements made under such stipulations are deemed material, whether so or not. *Life Association* v. *Leflore*, 53 Miss. 1; *Johnson* v. *Ins. Co.*, 83 Me. 182; *Swick* v. *Ins. Co.*, 2 Dill. 160; *Conn. Mut. Life Ins. Co.* v. *Young*, 77 Ill. App. 440. The principal case cites *Life Association* v. *Leflore*, supra, and attempts to distinguish it on the ground that the representation in that case was in fact material. The unequivocal language of the decision, however, shows that the court in that case did not base its decision on the actual materiality of the representation.

INTOXICATING LIQUORS—LOCAL OPTION LAW—SALES—ACTS CONSTITUTING.—The prosecuting witness testified that he went to the defendant's clubroom to obtain whisky. The defendant had none, but said the witness might borrow some, suggesting a party present. This was done with the understanding that when the whisky which the witness had ordered should come, the third party should have it in return for that loaned. *Held*, a sale in violation of the local option law. *Coleman* v. *State* (1908), — Tex. Cr. App. —, 111 S. W. 1011.

Barter is the exchange of one article for another, no price in money being fixed upon either. MECHEM, SALES, Vol. 1, p. 13. A sale, on the other hand, requires the transfer to be in consideration of a price in money. In the principal case some money did change hands, but the evidence as to its purpose or its disposal must have been slight, for the court discusses it as a case of borrowing. The court cites the following authorities to show that this is a sale: *Tombeaugh* v. *State*, — Tex. —, 98 S. W. 1054; *Taggert* v. *State*, — Tex. —, 97 S. W. 95; *Treadway* v. *State*, 42 Tex. Cr. R. 466, 62 S. W. 574. In all of these cases, however, it was clear that the purpose was to evade the law. The dissenting opinion in the principal case inclines to the rule as established in *Ray* v. *State*, 46 Tex. Cr. R. 176, 79 S. W. 535, which case had, however, been overruled in *Tombeaugh* v. *State*. The *Ray*